

OPINION  
47-242

June 30, 1947

**WATERS - Irrigation Districts - Power of Water Conservation Commission to Aid in Repair of Irrigation System**

This is in reply to your letter of June 30, 1947, addressed to the attorney general's office, in which you ask for our opinion upon the following proposition:

"Sometime ago the State Water Conservation Commission constructed an irrigation system for the Sioux Irrigation District in McKenzie County, North Dakota. This District lies near the town of Cartwright in McKenzie County. The system was turned over to the Irrigation District and the Irrigation System made payment therefor. In the operation some trouble has been experienced when the water is low. It seems that the intake ought to be deepened. The District is a small district and it has requested assistance from the State Water Conservation Commission for the purpose of making the necessary installations and repairs."

You inquire whether the state water conservation commission would be authorized to make a grant to the Sioux Irrigation District out of the fund remaining in the appropriation made by chapter 140 of the 1945 Session Laws for the water conservation commission administration to be used in defraying expenses in connection with the proposed deepening of the intake referred to in your letter.

There is one item referred to in this appropriation as "maintenance of dams" in the sum of \$45,000.00, and there is a considerable balance left in this fund, at least a sufficient sum to defray such expenditures. It should be observed that the entire appropriation made by chapter 140 is for the state water commission administration, and all of the items referred to in the appropriation are, of course, related items, all pertaining to the administration of maintenance of existing dams and drainage channels, construction of needed drainage channels, planning and surveying projects, and expense of state compacts.

It was clearly the intention of the legislative assembly that the funds appropriated for maintenance of dams may be used to defray the expenditures of deepening the intake which is necessary to maintain the irrigation system under consideration. It should be observed, however, that in order to make use of the balance of this fund a commitment must be made thereof prior to July 1, 1947.

It is, therefore, the opinion of this office that the state water conservation commission is authorized to make a grant to the Sioux Irrigation District out of any balance remaining in the item of \$45,000.00, listed for maintenance of dams to be used in defraying the necessary expenses in connection with the deepening of the intake of the Sioux Irrigation District system in McKenzie County.